

EDWARD H. KUBO, JR. #2499  
United States Attorney  
District of Hawaii

RONALD G. JOHNSON # 4532  
Major Crimes Section Chief

MARSHALL SILVERBERG #5111  
Assistant U.S. Attorney  
Room 6-100, PJKK Federal Building  
300 Ala Moana Blvd., Box 50183  
Honolulu, Hawaii 96850  
Telephone: (808)541-2850  
Facsimile: (808)541-2958  
E-Mail: [Marshall.Silverberg@usdoj.gov](mailto:Marshall.Silverberg@usdoj.gov)

Attorneys for Plaintiff  
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. 03-00248 DAE
	)	
Plaintiff,	)	DECLARATION OF MARSHALL H.
	)	SILVERBERG
vs.	)	
	)	
SAMUEL KAAUWAI, III,	)	
	)	
Defendant.	)	
	)	

DECLARATION OF MARSHALL H. SILVERBERG

I, MARSHALL H. SILVERBERG, declare as follows:

1. I am an Assistant U.S. Attorney for the District of Hawaii. I represent the United States in the captioned matter.

2. In or about early April 2006, attorney Glenn Choy asked me if I would stipulate to a continuance in the sentencing of the defendant Samuel Kaauwai, III. I replied that I would do so only if Mr. Kaauwai stated in writing that the purpose for the continuance was not to allow him time to file a motion to withdraw his guilty plea and that he in fact was not going to ever file a motion to withdraw his guilty plea. Mr. Choy subsequently telephoned me to reflect that those terms were acceptable to Mr. Kaauwai. Mr. Choy later sent me Mr. Kaauwai's statement dated April 12, 2006, and attached hereto as Exhibit 7.

3. Because of Mr. Kaauwai's April 12, 2006, "Statement," I agreed to stipulate to a further continuance in Mr. Kaauwai's sentencing date. In other words, I relied upon Mr. Kaauwai's assurance that he was not going to later move to withdraw his guilty plea in stipulating to a further continuance of the sentencing date.

4. In addition, I also relied upon the existence of Paragraph 20 of the Memorandum of Plea Agreement in agreeing to the continuances requested by Mr. Kaauwai. Had I known that Mr. Kaauwai intended to withdraw his guilty plea after three years had gone by, I never would have agreed to any of the continuances. I have no idea if the non-law enforcement witnesses can be located and even if they can be located, whether they retain their recollections of an event that occurred over three years ago.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Dated: January 10, 2007, at Honolulu, Hawaii.

  
MARSHALL H. SILVERBERG